

**IN THE COURT OF APPEALS**  
**FIRST APPELLATE DISTRICT OF OHIO**  
**HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NO. C-160373
	:	TRIAL NO. B-1506816-B
Plaintiff-Appellee,	:	
vs.	:	<i>JUDGMENT ENTRY.</i>
SEAN ALEXANDER	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Defendant-appellant Sean Alexander pleaded guilty to receiving stolen property (“RSP”) and failing to comply with an order or signal of a police officer, in violation of R.C. 2913.51(A) and 2921.331(B), respectively. The trial court sentenced Alexander to six months’ incarceration on the RSP charge, and to 18 months’ incarceration on the failure-to-comply charge, to be served consecutively. The trial court also determined that the failure-to-comply charge was a “crime of violence.” Based on this “crime of violence” determination, the court sentenced Alexander to three years of mandatory postrelease control. Alexander now appeals.

In his first assignment of error, Alexander contends that the trial court failed to consider all of the “seriousness” factors in R.C. 2921.331(C)(5)(b)(i)-(ix) before sentencing him on his failure-to-comply charge. Because Alexander did

not object on this basis in the trial court, he has forfeited all but plain error on appeal. *See State v. Rogers*, 143 Ohio St.3d 385, 2015-Ohio-2459, 38 N.E.3d 860, ¶ 3. Forfeited error “is not reversible error unless it affected the outcome of the proceeding and reversal is necessary to correct a manifest miscarriage of justice.” *Id.*

Even if the court did err in this case, Alexander has not argued, let alone demonstrated, that his sentence on the failure-to-comply charge would have been different “but for” the alleged error, or that reversal is necessary to correct a manifest miscarriage of justice. *See Rogers* at ¶ 3; *State v. Harrison*, 122 Ohio St.3d 512, 2009–Ohio–3547, 912 N.E.2d 1106, ¶ 61; *State v. Long*, 53 Ohio St.2d 91, 97, 372 N.E.2d 804 (1978). This assignment of error is therefore overruled.

In his second assignment of error, Alexander asserts that the trial court erred when it determined that the failure-to-comply offense was “an offense of violence,” thereby imposing a mandatory term of postrelease control under R.C. 2967.28(B).

In pertinent part, R.C. 2901.01(A)(9)(c) defines an “offense of violence” as an offense “committed purposely or knowingly, and involving physical harm to persons or a risk of serious physical harm to persons.” The failure-to-comply statute, R.C. 2921.331(B), provides that “[n]o person shall operate a motor vehicle so as willfully to elude or flee a police officer after receiving a visible or audible signal from a police officer to bring the person’s motor vehicle to a stop.”

The term “willfully” is not defined in R.C. 2901.22, which is the statute that covers culpable mental states for criminal liability. Alexander contends that, because “willfully” is not a recognized mens rea, the mens rea for R.C.

2921.331(B) is recklessness. See R.C. 2901.21(C). And, Alexander argues, because he pled to acting recklessly, there was no evidence that he acted “purposely” or “knowingly” and the trial court therefore erred in determining that Alexander had committed an “offense of violence.” Alexander is incorrect.

The 1973 Legislative Service Commission Notes to R.C. 2901.22 state, “Purpose is defined in terms of a specific intention either to cause a certain result, or to engage in conduct of a certain nature regardless of what the offender intends to accomplish through that conduct. ‘Purposely’ in the new code equates with ‘purposely,’ ‘intentionally,’ ‘willfully,’ or ‘deliberately’ in the former law.” And in *State v. Hill*, 1st Dist. Hamilton No. C-030678, 2004-Ohio-2275, ¶ 8, this court held that “willfully” equates with “purposely” as it is used in R.C. 2929.331(B).

Consequently, “willfully” is synonymous with “purposely.” Since Alexander pleaded to engaging in “willful” conduct, the trial court correctly found that Alexander had acted “purposely” when determining whether Alexander had committed an “offense of violence.” We overrule Alexander’s second assignment of error.

The trial court’s judgment is affirmed.

A certified copy of this judgment entry is the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

**MOCK, P.J., CUNNINGHAM and ZAYAS, JJ.**

To the clerk:

Enter upon the journal of the court on February 15, 2017  
per order of the court \_\_\_\_\_.

Presiding Judge